

REMARKS

The Applicant appreciates the courteous and complete examination of the application by the Examiner. In view of the foregoing amendments and the following remarks, a reconsideration of the instant application is respectfully requested.

In order to expedite the prosecution of this application, claims 16, 17, 29 and 36 have been canceled without prejudice or disclaimer of the subject matter thereof, in favor of Applicant's right to pursue the cancelled claims in a continuing application filed at a later date, thereby permitting the remaining allowed claims to issue as a patent. Claim 15, 19, 35 and 37 have been amended to include the limitations of allowable claim 36 and its intervening claims. Claims 15, 19, 20, 21, 23, 24, 28, 35, 37 and 38 are now in this application. Withdrawn claims 30, 31 and 32 have been amended to depend from amended claim 15 for the purpose of rejoinder.

Regarding the Claim § 102 Rejection

The Examiner rejected claims 15, 17, 19-21, 23, 24 and 35 under 35 U.S.C. 102(b) as being anticipated by Moores. The Examiner stated that claims 36-38 "would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims."

Independent 15 has been amended to include all the limitations of allowable claim 36 and its base claim 29, thereby putting independent claim 15 in condition for allowance.

Claim 17 has been cancelled.

Claims 19-21, 23 and 24 are felt to patentably distinguish over the prior art references because of their above-mentioned dependency from amended claim 15.

Claim 35 has been amended to depend from now allowable amended claim 15, since claim 29, which claim 35 dependent from, is cancelled. Claim 29 has been cancelled because claim 15 has been amended to include all the limitations of claim 29, therefore claim 29 was a duplicate of amended claim 15.

The Applicant respectfully reiterates the arguments directed toward claim 15 as previously presented. The Applicant respectfully believes that the Moores reference is

not a proper 35 U.S.C. 102(b) rejection since Moores does not disclose, teach or suggest a "head positionable at the end of said stem", as in claim 15. The stem (7) in Moores does not disclose the separate and independent head limitation and is therefore believed to be patentably distinct. The Applicant requests that the Examiner reconsiders his rejections of the invention in view of the well established principle that small differences in a crowded art can constitute patentable improvement. See *In re Baum*, 51 USPQ 470 (CCPA 1941) and *In re Lange*, 126 USPQ 365 (CCPA 1960). In considering this principle, the Applicant would also request that the Examiner take note to the court decision which notes that "apparent simplicity has been held to furnish strong argument for patentability where, as here, a need has existed for a structure of the nature disclosed and claimed. The fact that a solution to a problem is simple, or appears to be simple when viewed in retrospect, does not mean that the solution was obvious when it was conceived." See *Ellipse corp. v. Ford Motor Co.*, 171 USPQ 513.

Additionally, the Moores buckle only works when two straps are lined in a horizontal way with the flushed perforations before the mount of the buckle. Both straps are at the same time to be pivoted or formed as a loose tongue [col. 1 line 12] in order to be mounted. It is believed that it is not the intention and therefore it's not possible for the Moores invention to be mounted with any form of tension being exposed to the straps. Furthermore, if only one strap is attached to the Moores invention and tension is put to this first strap it's not possible to mount the next strap due to the face that the side throat (3) [Figs. 1 and 2, col. 2 lines 29 - 30, and col. 2 line 47] is blocked by the first strap.

The claimed present invention does not have this limitation only to be mounted on loose straps already being in flush with each other. Being used as a belt buckle the present invention is intentionally to be mounted on a strap already in use (with some tension to the strap) and the circumferential recess on the present invention pin prevents the buckle (when only attached to one strap) from falling off. Additionally, the claimed present invention distinguishes from Moores in that it can be inserted on straps already in use with tension, and the present invention can be turned clockwise or counterclockwise granting easy access to mount and dismount the straps therefrom. This clockwise or counterclockwise movement is not possible with Moores because the

guards (5, 6) [lines 34 – 36] prevent the strap from rotating. Furthermore, the claimed present invention distinguishes from Moores in that it can hold two or more straps forming an angle with each other. The guards (5 + 6) of Moores are constructed a way that they both guide and firmly hold the buckle in a parallel position with the straps.

Furthermore, in regards to claim 17, the Examiner states that the Moores reference discloses “an extension that extends from the pin and then attaches to the first hook part.” The Examiner makes specific reference to Fig. 2 of Moores and states “extension larger than then diameter of the perforations of the strips” which points to a section of element 4 in Fig. 2. It is respectfully believed that the Examiner has improperly modified element 4 in the Moores reference, and is therefore not a proper rejection.

The Applicant respectfully believes the Examiner is in error in the modification of this element in Moores. Element 4 which the Examiner states as being an extension is in fact a central connecting bar (4) having a stud/post (7) rising up therefrom, and a pair of guards (6) extending up from the free ends of the central connecting bar (4) [Fig. 2, and col. 1 lines 31-39]. Claim 17 specifically claims the stem having an extension, and extending up from an extension. The Moores reference does not disclose, teach or suggest the use of a separate and independent extension limitation or element being part of the stem.

Regarding the Claim § 103 Rejection

The Examiner rejected claim 28 under 35 U.S.C. 103(a) as being unpatentable over Moores. Claim 28 depends from claim 19, and claim 19 has been amended to depend from now allowable amended claim 15. Claims 28 is felt to patentably distinguish over the prior art references because of its above-mentioned dependency from amended claim 15.

It is believed that modifying the Moores conical stem (7), as relied upon by the Examiner, would change the principle operation of the Moores buckle, since the stem (7) is conical with a tapering diameter and stem (7) does not contain an extension having a diameter larger than the stem. The claimed stem and extension featuring a screw joint, as in claim 28, allows for a strip to be positioned on the hook, then the stem

inserted through the stem perforation and secured to the hook by the screw joint. The strip is now positioned between the extension and the hook. Modifying the Moores reference to have a non-disclosed screw joint would not yield this same result since the stem (7) is conical shaped and it does not contain an extension.

Furthermore, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Additionally, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959). Since the Moores reference do not disclose, teach, or suggest the use of an extension on the stem and a screw joint connected the stem to the hook, then the Examiner used a proposed modification of the prior art in the § 103 rejection of claim 28. It can therefore be appreciated that since the Examiner's proposed modifications of the Moores reference does change the principle of operation of the prior art, then the Moores reference is not sufficient to render the claims obvious.

The Examiner rejected claims 16 and 29 under 35 U.S.C. 103(a) as being unpatentable over Moores. Claims 16 and 29 have been cancelled.

Regarding the Withdrawn Claims

The Applicant respectfully requests that the Examiner rejoin withdrawn claims 18, 22, 25, 26, 27 and 30-34 under MPEP 821.04(a) which states "restriction requirement between the elected invention and any nonelected invention that depends from or otherwise requires all the limitations of an allowable claim should be withdrawn."

Therefore since withdrawn claims 18, 22, 25, 26, 27 and 30-34 all depend from allowable claims and they are directed toward a single allowable product, then it is believed that the previous holding of restriction and withdrawal be removed and the claims rejoined into the application and allowed.

Conclusion

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Applicant has endeavored to address all of the Examiner's concerns as expressed in the Office Action. Accordingly, amendments to the claims, the reasons therefor, and arguments in support of patentability of the pending claim set are presented above. Any claim amendments which are not specifically discussed in the above-remarks are made in order to improve the clarity of claim language, to correct grammatical mistakes or ambiguities, and to otherwise improve the clarity of the claims to particularly and distinctly point out the invention to those of skill in the art. Finally, Applicant submits that the claim limitations above represent only illustrative distinctions. Hence, there may be other patentable features that distinguish the claimed invention from the prior art.

With the above amendments being fully responsive to all outstanding rejections and formal requirements, it is respectfully submitted that the claims are now in condition for allowance, and a notice to that effect is earnestly solicited. Should the Examiner feel that there are further issues which might be resolved by means of telephone interview, the Examiner is cordially invited to telephone the undersigned at (403) 444-5695, or by email at davidguerra@internationalpatentgroup.com.

No additional fee is due.

Respectfully Submitted,

/David A. Guerra/

David A. Guerra
Registration No.: 46,443
Customer No.: 29,689

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO, electronically transmitted using EFS-Web, or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

On (Date) 12/15/2008 by David A. Guerra /David A. Guerra/